

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Nathan (Allen) & Dixie M. Norton,

Petitioners-Appellants,

v.

Warren Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-91-0744
Parcel No. 05-325-00-1295**

On October 15, 2010, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(1)(a) and Iowa Administrative Code rules 701-71.21(1), et al. Appellants, Nathan (Allen) Norton and Dixie M. Norton requested a hearing. Mr. Norton represented them at hearing. The Warren Board of Review designated County Attorney Bryan Tingle as its legal representative. Warren County Assessor Bryan Arnold represented the Board of Review at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Mr. Norton protested to the Warren Board of Review regarding his property located at 665 Greenfield Parkway, Des Moines, Iowa. The 2009 residential assessment is allocated as follows: \$15,800 in land value and \$92,300 in improvement value, for a total assessment of \$108,100. The subject improvements were built in 1966 and include a one-story frame dwelling with a total above grade living area of 960 square feet, a full basement, and a two-car attached garage.

Norton's claim was based on the following grounds: 1) that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b); and 2) that there is an error in

the assessment under section 441.37(1)(d). Norton asserts the error as the lot size is not correctly recorded on the property record card. The Board of Review left the 2009 value unchanged.

Norton then appealed to this Board asserting the same grounds. He asserts the correct value of his property is \$75,700, representing \$13,100 in land value and \$62,600 in improvement value.

Norton listed four properties he considered as comparable to his property in his Board of Review petition. He provided the district/parcel number, street address, sales date, and sales price of these properties. However, he did not offer any comparison between the properties demonstrating they were similar in style, size, quality, or amenities, for example. Nor did he make any adjustments for differences in these properties compared to his own.

Norton makes a statement on his petition indicating he believes the condition rating of “below normal” is incorrect and that the condition rating should be “very poor.” He supports this position with a letter to the Board of Review originally submitted with his petition. The letter indicates what Norton considers to be major deficiencies in the property including cracks in the basement, house walls, garage and front porch floor; deteriorating siding; rotted window sills and fascia board; and, peeling paint on the house and garage.

Norton also identifies six additional properties in this letter he claims have sold for less than their assessed values. He did not, however, make a claim of equity, and does not present these properties as comparables to his property in support of a market value claim. Therefore, we give no them consideration.

Norton also had a concern regarding the dimensions of his site; asserting the assessor has improper dimensions on the property-record card. The property record card reports the site as rectangular with an 88 foot front/rear lot line and 114 foot side lot lines. Norton provided a copy of the plat map which indicates the rear lot line as 88.2 feet and the side lot line as 113.5 feet. Bryan Arnold testified it is typical for the dimensions to be rounded to the nearest whole number. Additionally,

Norton was concerned that a portion of his site was improperly assessed because it was "part of the road" and not owned by him. The subject site is a corner lot, and the northeast corner has a 15 degree radius to accommodate the corner lot and streets. This is also considered within the rounding routinely employed by an assessor. The subject site is reported as having 10,032 square feet which is typical of other sites in the immediate area, according to the plat map supplied by Norton. Once Arnold explained the rounding procedures, Norton understood and conceded the property record card correctly reflected the plat map he supplied.

Bryan Arnold further testified he inspected Norton's property the day before the hearing. At the time of inspection some of the basement walls had been repaired. Despite the repairs, Arnold acknowledged that as of January 1, 2009, he believed the property was valued higher than market given its condition at that time. Given this testimony, Arnold agreed to re-evaluate the assessment and provide us with a written statement of his corrected value opinion as of January 1, 2009.

Arnold submitted a letter on October 25, 2010, which indicated a total value of \$98,600, allocated as \$15,800 in land value and \$82,800 in improvement value was his revised value opinion. Arnold indicated the change in value was the result of some minor adjustments in the listing, as well as a 10% obsolescence adjustment to reflect the deferred maintenance and foundation problems as of January 1, 2009.

Based largely on Arnold's testimony and his new opinion of value, we find sufficient evidence has been presented to demonstrate the subject property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). County Assessor Bryan Arnold testified that after a physical inspection of the subject property and personally verifying the deferred maintenance and foundation issues; the property was valued for more than authorized by law. Arnold provided this Board with an adjusted opinion of value reflecting the deferred maintenance and applying a 10% obsolescence factor for the foundation issues. Arnold's opinion of value as of January 1, 2009, is \$98,600. We consider this the best evidence in the record reflecting the actual condition of the subject property.


We note Norton also originally contended there was an error in the assessment because the site dimensions were incorrect. However after explanation, he conceded an understanding of the rounding

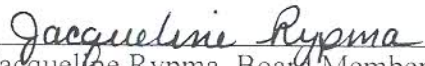
which is employed from the plat map to the property record card. Therefore we need not address this issue.

The evidence supports the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we modify the January 1, 2009, assessment of the property located at 665 Greenfield Parkway, Des Moines, Iowa, as determined by the Warren County Board of Review.

THE APPEAL BOARD ORDERS that Nathan (Allen) and Dixie M. Norton's property located at 665 Greenfield Parkway, Des Moines, Iowa, is modified to a total value of \$98,600; representing \$15,600 in land value and \$82,800 to the improvements as of January 1, 2009. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 10 day of November, 2010


Karen Oberman, Presiding Officer


Jacqueline Rypma, Board Member

Cc:

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-10</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	

